

Notice of Allowability

Application No.

10/538,691

Examiner

Margaret G. Moore

Applicant(s)

ABE ET AL.

Art Unit

1712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to communication filed June 10, 2005.
2. ☒ The allowed claim(s) is/are 1 to 8.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

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1. The following is an examiner's statement of reasons for allowance: The instant claims are neither taught nor suggested by the prior art. Gladden, Mifune et al. and Gidley et al. teach various metal sheets attached to a rubber magnet by means of different adhesives, but none teach or suggest the two layers of adhesives required by the instant claims. Neither JP 2004 150859 (abstract) and JP 2004 028877 (abstract) qualify as prior art in this instant application. Even if they were prior art, neither teach or suggests the use of a specific two layers of adhesive as required. Abe et al. teach a rubber composition for use in a magnetic encoder but also fail to teach or suggest a two layer adhesive.

Finally the Examiner draws attention to JP 2001 260235. This was cited as an "X/Y" reference against the claims in the international search report. The Examiner has obtained a machine generated English language translation. While this is not a very good translation, it is sufficient for the skilled artisan to determine that this reference fails to teach or suggest the instant claims as found in the amended claims filed 6/10/05. This teaches metal and rubber bonded by means of a two layered adhesive system. However the totality of the teachings differ from that claimed in numerous ways. First the application is silent as to a magnetic rubber and there is nothing that would lead the skilled artisan to magnetize the rubber therein, particular such that the resulting structure can function as a magnetic encoder. In addition, one must have to pick and choose form among many metals, first adhesives and second adhesives to arrive at the particular adhesives used in the claimed encoder. Finally, it is unclear if an organopoly-siloxane is present. While the first adhesive does include a silane, there is nothing to indicate if this silane reacts to form an organopolysiloxane or not. Note, for instance, that the silane is present only in an amount of up to 20 wt% of the total first adhesive. From this one cannot be sure that the silane undergoes adequate condensation with other silanes to form an organopolysiloxane. In view of these various points, this reference simply is not sufficient to teach or render obvious the instant claims.

To clarify the breadth of the claims, the Examiner notes that the language "successively laid one upon another" requires that the layers noted in claim 1 be in

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contact with one another, i.e. no intervening layer (that is not specified by the claims) can be present.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Margaret G. Moore whose telephone number is 571-272-1090. The examiner can normally be reached on Monday to Wednesday and Friday, 10am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski can be reached on (571) 272-1302. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Margaret G. Moore
Primary Examiner
Art Unit 1712

mgm
1/5/07